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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 468 of 1998

in

SPECIAL CIVIL APPLICATIONNo 329 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT RAJYA RUPANTARIT GRAM/NAGAR PANCHAYAT STAFF ASSO
Versus
STATE OF GUJARAT

Appearance:
1. LETTERS PATENT APPEAL No. 468 of 1998
MR AM RAVAL for Appellants No. 1-2
M/S ANAND ADVOCATES for Appellant No. 1
MR SP SEN, AGP for Respondents No. 1-2
MR SHALIN N MEHTA for Respondent No. 3

CORAM : MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE P.B.MAJMUDAR

Date of decision: 24/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

#. This appeal, which is filed under Clause 15 of the Letters Patent Appeal, is directed against the judgment dated October 3, 1997 rendered by the learned Single Judge in Special Civil Application No.329 of 1985.

#. In the main petition, i.e. in Special Civil Application No.329 of 1985, following three reliefs were claimed :

(i) to treat the appellants as within the purview of the Third Pay Commission;

(ii) to direct the respondents to extend the benefits of interim relief recommended by the Third Pay Commission; and

(iii) to direct the respondents to provide promotional avenues.

The learned Single Judge has dismissed the petition by judgment dated October 3, 1997, but has reserved liberty to the appellants to make a representation to the respondent No.1 if any of their grievances as made in the petition still survives and the respondent No.1 is directed to decide the same within a period of four months from the date of receipt of the representation.

#. Heard the learned counsel for the parties. The record of the case shows that an interim direction was given by the learned Single Judge of this Court on February 15, 1985 and the respondents were directed to extend the benefits of interim relief recommended by the Third Pay Commission. It is not brought to the notice of the Court that the said interim direction has not been complied with by the respondents. We further find that, for the reasons stated in para 4 of the affidavit-in-reply filed by Mr.C.K.Makwana, Deputy Secretary, Government of Gujarat, Panchayat and Rural Housing Department. On July 29, 1985, the case of the ex-municipal employees could not be placed before the Third Pay Commission, but a categorical statement on oath has been made by Mr.Makwana that ex-municipal employees would also be given the benefits similar to those which

may be granted to the Government servants pursuant to the ultimate revision of pay fixation which may be accepted by the State Government. For remaining grievances, namely, providing of promotional avenues etc. the learned Single Judge has reserved liberty to the appellants to make a representation and the respondent No.1 is directed to decide the same on merits. Therefore, we are of the opinion that the order passed by the learned Single Judge has fully protected the interest of the appellants and no case is made out to interfere in the present appeal. However, we find that the learned Single Judge had directed the appellants to make the representation within a period of one month from the date of the receipt of the certified copy of the order if any of their grievances as made in the petition were surviving, and therefore, having regards to the facts of the case, the said period deserves to be extended suitably.

#. It is clarified that, it would be open to the appellants to make a representation within one month from the date of the receipt of the certified copy of this order pointing out their grievances as made in the petition if they still survive and the respondent No.1 shall decide the same within a period of four months thereafter. It is further directed that the grievances which may be raised by the appellants in the representation shall be dealt with by the respondent No.1 by passing a speaking order and if the decision rendered by the respondent No.1 is adverse to the interest of the appellants, they shall be entitled to challenge the same before the appropriate forum.

#. Subject to the above observations, the appeal fails and the same is dismissed with no order as to costs.

(J.M.Panchal,J) (P.B.Majmudar,J)

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